IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 12051 of 2007(I)

OS.79/2005 of II ADDL.SUB COURT,KOZHIKODE
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PETITIONER:

M.GOPINATHAN, S/O.KRISHNAN,
AGED 48 YEARS, GAYATHRI, NADUVATTOM AMSOM,
DESOM, KOZHIKODE.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS:

PILAKKAT SANTHA, D/O.M.C.KRISHNAN NAIR,
4/528A, KARIMBIL HOUSE, JOSEPH RAOD,
KOZHIKODE.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF I.A.1196/07 IN OS 79/05 FILED BY THE PETITIONER BEFORE THE SUB COURT-II, KOZHIKODE.**

EXT.P2 **TRUE COPY OF I.A.1398/07 IN OS 79/05 FILED BY THE PETITIONER BEFORE THE SUB COURT-II, KOZHIKODE.**

EXT.P3 **TRUE COPY OF I.A.1396/07 IN OS 79/05 FILED BY THE PETITIONER BEFORE THE SUB COURT -II, KOZHIKODE.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 12051 OF 2007

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Dated this the 6th day of June, 2007.

J U D G M E N T

This writ petition is filed to direct the Subordinate Judge-II Kozhikode to call for the records in S.T.881/05 peruse the same and send it back to the Court from where it has been summoned. I am informed by both the sides that a case u/s 138 of N.I. is pending before the Judicial First Class Magistrate Court(Marad Cases), Kozhikode and on the very same cause of action a suit for realisation of money is pending before the Subordinate Court-II, Kozhikode. It is submitted by the learned counsel for the writ petitioner that the original cheque was produced and subsequently when it became necessary to produce it before the Magistrate Court for the purpose of pursuing evidence a certified copy obtained from the Court was substituted and the original was taken back and produced before the Magistrate Court and marked as Ext.P1 in that case. Now, the learned counsel would submit that the Sub Court insisted for the perusal of the original of the cheque before pronouncement of judgment. If the learned Subordinate Judge really needs a perusal of the original of the

cheque the only mode available is to direct the Subordinate Judge to call for Ext.P1 from the First Class Magistrate Court(Marad) cases and after perusal return it to the same Court because it forms part of the record of that Court as it is marked as Ext.P1. Therefore, the learned Subordinate Judge is directed to call for the original of the cheque involved in the case from the Judicial First Class Magistrate Court(Marad Cases). Thereafter, peruse it and return it back to the same Court from where it is summoned. The judgment in the case shall be pronounced after the said perusal by the learned Subordinate Judge and in case of necessity after hearing both parties regarding the same.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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